

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JENNIFER TEMPLE,
Plaintiff,

v.

TEXAS A&M UNIVERSITY,
Defendant.

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Civ. Action No. 4:09-cv-03214

DEFENDANT TEXAS A&M UNIVERSITY’S MOTION TO DISMISS

TO THE HONORABLE NANCY F. ATLAS:

Defendant Texas A&M University files this Motion to Dismiss pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure to dismiss Plaintiff’s Complaint. This case should be dismissed because: (1) Defendant is immune from suit by operation of sovereign immunity; and (2) Defendant, as a state agency, is not a “person” under 42 U.S.C. §1983 and cannot be liable for such claims. The legal and factual grounds upon which Defendant relies in support of its motion are set forth in its supporting brief in accordance with Local Rule 7.1.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Defendant Texas A&M University respectfully requests that the Court issue an order dismissing Plaintiff’s Complaint in its entirety and awarding Defendants such costs as were incurred in bringing this motion.

Dated: October 29, 2009

Respectfully submitted,

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Attorney General of Texas

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***ATTORNEYS FOR DEFENDANT TEXAS
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CERTIFICATE OF SERVICE

I hereby certify that a copy of Defendant Texas A&M University's Motion To Dismiss was served via the *CM/ECF system* on October 29, 2009, to:

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/s/ Daniel C. Perkins
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